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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/873,763	06/04/2001	Brian J. McClellan	02316.1414US01	2341
23552	7590	02/12/2004	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DOAN, JENNIFER	
			ART UNIT	PAPER NUMBER
			2874	
DATE MAILED: 02/12/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

09/873,763

Applicant(s)

MCCLELLAN ET AL.

Examiner

Jennifer Doan

Art Unit

2874

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 24-40 and 56-76 is/are pending in the application.
- 4a) Of the above claim(s) 13-23 and 41-55 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-28, 36-40, 56-60 and 64-71 is/are allowed.
- 6) ☒ Claim(s) 1-12, 29, 31-35, 61-63 and 72 is/are rejected.
- 7) ☒ Claim(s) 30 and 73-76 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 June 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0603 and 0202</u> . | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12, 24-40 and 56-76, drawn to an apparatus of a chassis for holding telecommunication cards and telecommunication modules, classified in class 385, subclass 134. [Subcombination]
- II. Claims 13-23 and 41-55, drawn to an apparatus of a telecommunication module, classified in class 385, subclass 88. [Combination]

Invention I is related as subcombination discloses an apparatus of a chassis for holding telecommunication cards and telecommunication modules for its own utility. Invention II is related as combination teaches an apparatus of a telecommunication module which has its own usable. The subcombinations/combinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I (Subcombination) has separate utility such as DRAM instead of image display apparatus. See MPEP § 806.05(d).

During a telephone conversation with Mr. Steven Bruess on February 2, 2004 an election was made without traverse to prosecute the invention of Group I, claims 1-12, 24-40 and 56-76. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-23 and 41-55 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Drawings***

1. The drawings, filed on 06/04/2001, are objected to because of the following reasons:

The character of numbers and letters of figures 1-56 are not uniform.

The corrected drawings are required.

***Specification***

2. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9, 11, 12 and 61-63 are rejected under 35 U.S.C. 102(b) as being anticipated by Ortberg et al. (U.S. Patent 5,966,648).

Regarding claims 1, 4, 6-9, 12, 61 and 63, Ortberg et al. disclose (see Figures 1, 2 and 9-12) a chassis (12) for holding telecommunications cards comprising first and second horizontal surfaces (202, 204) and vertical sidewalls mounted to the first and second horizontal surfaces, the first horizontal surface having a first ridge positioned

Art Unit: 2874

substantially perpendicular to a longitudinal axis of the vertical sidewalls, the first horizontal surface having a plurality of card slots (210) extending across the first horizontal surface but not across the first ridge, the card slots being substantially parallel to the longitudinal axis of the vertical sidewalls, the second horizontal surface having a first ridge with a plurality of card slots extending across the first ridge of the second horizontal surface and parallel to the plurality of card slots of the first horizontal surface (as shown in figures); wherein the first and second horizontal surfaces also having a divider slot between adjacent card slots, the divider slot being substantially parallel to the plurality of card slots of the first horizontal surface but not extending to the edge of the first horizontal surface; wherein an edge of the first horizontal surface is defined by an intersection of a vertical portion and a horizontal portion of a first ridge of the first horizontal surface (as shown in Figures); further comprising a divider wall positioned between the first horizontal surface and the second horizontal surface, the divider wall having an edge positioned within the divider slot of the first horizontal surface (as shown in figures and column 2, lines 1-30); further wherein a plurality of modules positioned between the vertical sidewalls and on the first horizontal surface, the plurality of modules having an edge disposed in the card slot of the first horizontal surface, the plurality of modules having circuitry for converting electrical signals to optical or optical signals to electrical signals, the circuitry including an optics transceiver positioned over the first ridge and a DC-DC converter positioned over the second ridge (Figures 5 and 6; column 2, lines 1-40 and column 4, lines 12-42).

Regarding claim 2, wherein the plurality of card slots (210, Fig. 1) of the second surface (204, Fig. 1) are aligned with the plurality of card slots (210, Fig. 1) of the first surface (202, Fig. 1).

Regarding claims 3 and 11, further comprising a plurality of circuit cards having a first edge and a second edge disposed between the first and second horizontal surfaces, wherein the first edge of each circuit card is positioned within a card slot of the plurality of card slots of the first horizontal surface and the second edge of each circuit card is positioned within a card slot of the plurality of card slots of the second horizontal surface (as shown in Figures 2-4).

Regarding claim 5, wherein the first horizontal surface has one or more openings between adjacent card slots and the second horizontal surface has one or more openings on the first and second ridge between adjacent card slots (as shown in Figures 1 and 2).

Regarding claim 62, wherein the first horizontal surface has a plurality of openings between the first and second ridge, and wherein the plurality of modules further include a shielding cage (13, Figure 4) enclosing at least a portion of the circuitry, the shielding cage (13, Figure 4) being positioned between the first and second ridges.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 10, 29, 31-35 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ortberg et al. (as cited above).

Ortberg et al. disclose an optical device with all the limitations set forth in the claims as discussed above, except the first and second horizontal surfaces are a mesh material as recited in claim 10. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ mesh material to make the first and second horizontal surfaces, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Ortberg et al. disclose an optical device with all the limitations set forth in the claims as discussed above, except a baffle surface as recited in claims 29, 31-33 and 72. However, a baffle surface is considered to be obvious, since making the baffle surface is one of many modifications to accommodate and protect the optical device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the Orberg device with a baffle surface. Doing so would obtain more protection for the optical device.

Ortberg et al. disclose an optical device with all the limitations set forth in the claims as discussed above, except for a second and third baffle surfaces as recited in claims 31 and 32. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to reproduce a second and third baffle surfaces, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

#### ***Allowable Subject Matter***

8. Claims 30 and 73-76 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 24-28, 36-40, 56-60 and 64-71 are allowed.

The prior art fails to disclose or reasonably suggest a chassis for holding telecommunications modules comprising a first cover surface substantially



perpendicular to the vertical sidewalls and between the first and second horizontal surfaces, wherein the first cover surface has a first substantially vertical portion, a second portion angled with respect to the first substantially vertical portion, and a third portion angled with respect to the first substantially vertical first portion and substantially perpendicular to the second portion as recited in claims 24 and 56; wherein a cable guide having a horizontal portion, a vertical portion, and a plurality of cable slots; and a plurality of radius limiters disposed within the cable guide with each radius limiter adjacent to at least one of the plurality of cable slots as recited in claims 30, 36 and 73; wherein a horizontal channel extending between the first and second vertical sidewalls and spaced from the horizontal surface, the horizontal channel having a plurality of horizontal card slots extending parallel to the spatial planes of the vertical sidewalls, the horizontal channel having a width of the first dimension less than the width of the first dimension of the horizontal surface as recited in claim 64; and further the one or more vertical divider walls further include a third vertical edge, a fourth edge angled with respect to the third edge, and a fifth vertical edge, wherein the third edge interconnects the second edge and the fourth edge, and wherein the fifth vertical edge interconnects the fourth edge and the first edge as recited in claim 74.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Keith (U.S. Patent 5,459,808), Bridges (U.S. Patent 6,195,493), Gregory (U.S. Patent 6,305,848), Falkenberg et al. (U.S. Patent 6,388,891), Puetz et al.

(U.S. Patent 6,424,781), Follingstad (U.S. Patent 6,537,106) and Bourdeau (U.S. Patent 6,614,979) disclose a chassis for fiber optic communication.

10. The prior art documents submitted by applicant in the Information Disclosure Statements filed on 06/09/2003 and 02/20/2002, including the Ortberg et al. patent relied on in the rejection above, have all been considered and made of record (note the attached copy of form PTO-1449).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Doan whose telephone number is (571) 272-2346. The examiner can normally be reached on Monday to Thursday from 6:00am to 3:30pm, second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

*Jennifer Doan*

JD  
February 6, 2004

*AKM*  
AKM ENAYET ULLAH  
PRIMARY EXAMINER